

2013 DRAFTING REQUEST

Bill

Received:	5/21/2013	Received By:	jkuesel
Wanted:	As time permits	Same as LRB:	
For:	Jill Billings (608) 266-5780	By/Representing:	Chris McKinny
May Contact:		Drafter:	jkuesel
Subject:	Elections - campaign finance	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Billings@legis.wisconsin.gov**
 Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**
tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Restore Democracy Trust Fund

Instructions:

Restore Democracy Trust Fund per 2009 stats. P/C with Chris McKinny, 7/15: OK to delete supplemental grants and reporting structure that is tied to those grants.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 7/15/2013	scalvin 7/19/2013	rschluet 7/25/2013	_____			
/1				_____	lparisi 7/25/2013	lparisi 7/25/2013	State Crime

FE Sent For:

<END>

→ At Intro.

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1/?	jkuesel	1 sac 07/24/2013					

FE Sent For:

<END>

Kuesel, Jeffery

From: McKinny, Chris
Sent: Monday, May 20, 2013 12:31 PM
To: Kuesel, Jeffery
Subject: Bill Draft Request

Hi Jeff,

Could we please get a bill to reinstate the Democracy Trust Fund, which was eliminated in last biennium's budget? Thanks!

Chris



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2423/1

JTK/.....

cjs/kf/sac

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1

AN ACT *gen act*; relating to: *JWS A*

Analysis by the Legislative Reference Bureau

JWS ANAL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

JWS TEXT →

(END)

2009 SENATE BILL 40

February 5, 2009 – Introduced by Senators KREITLOW, TAYLOR, SULLIVAN, MILLER, RISSER, ERPENBACH, WIRCH, LASSA, LEHMAN, HANSEN, VINEHOUT and SCHULTZ, cosponsored by Representatives HINTZ, HILGENBERG, SMITH, GARTHWAITE, BENEDICT, ROYS, HEBL, STASKUNAS, TURNER, PARISI, CULLEN, JORGENSEN, RICHARDS, ZEPNICK, POCAN, POPE-ROBERTS, CLARK, SHILLING, HUBLER, BLACK, BERCEAU, GRIGSBY, MOLEPSKE JR. and KESSLER. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT** *to repeal* 11.50 (3) (a) 2., *to amend* 8.35 (4) (b), 11.12 (2), 11.16 (2), 11.16
2 (3), 11.26 (1) (a), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (13), 11.31 (1) (d),
3 11.50 (1) (a) 1., 11.50 (3) (b), 11.60 (4), 11.61 (2), 20.855 (4) (b) and 71.10 (3) (a);
4 and *to create* 11.26 (1) (am), 11.26 (2) (an), 11.26 (9) (ba), 11.501 to 11.522,
5 20.511 (1) (r), 20.585 (1) (q), 20.585 (1) (r), 20.855 (4) (ba), 20.855 (4) (bb), 25.17
6 (1) (cm) and 25.421 of the statutes; ~~relating to~~ public financing of campaigns
7 for the office of justice of the supreme court, making appropriations, and
8 providing penalties.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes in the campaign finance law affecting campaigns for the office of justice of the supreme court. The bill limits the application of the Wisconsin election campaign fund, under which eligible candidates for certain state offices (including justice of the supreme court) may currently receive public grants from state general purpose revenues derived from designations made by individuals filing state income tax returns, to state offices other than the office of justice. ~~To finance elections for the office of justice of the supreme court, the bill creates a democracy trust fund under which eligible candidates for this office may receive public grants derived from general purpose revenues.~~

to finance of justice
their campaigns of the supreme
court

SENATE BILL 40

MRS ANNA

Under the bill, a candidate for the office of justice of the supreme court may qualify for public financing from the democracy trust fund to finance a campaign in a primary or election by receiving qualifying contributions from at least 1,000 separate contributors who are electors of this state in amounts of not less than \$5 nor more than \$100 in an aggregate amount of at least \$5,000 but not more than \$15,000. A candidate who accepts public financing may also accept "seed money" contributions from electors of this state in amounts of \$100 or less, subject to aggregate limitations, and may contribute personal funds in specified amounts during specified periods. In order to qualify for a public financing benefit for the primary, a candidate at the spring primary must have an opponent who qualifies to have his or her name appear on the ballot at the primary, and in order to qualify for a public financing benefit for the spring election, a candidate at the election must have an opponent who qualifies to have his or her name appear on the ballot at the election. A candidate who accepts a public financing benefit may not accept any contributions other than qualifying and seed money contributions and contributions from personal funds within the limitations permitted. Public financing benefits for eligible candidates are \$100,000 in the spring primary and \$300,000 in the spring election. The benefits are subject to a biennial cost of living adjustment. ~~A candidate who accepts more than a specified amount of qualifying or seed money contributions has the excess deducted from his or her public financing benefit. In addition, if a candidate's opponent declines to accept a public financing benefit and makes expenditures in a total amount that exceeds by more than 5 percent the amount permitted for a candidate who accepts a public financing benefit, the candidate who accepts a public financing benefit receives additional funding equivalent to the excess expenditures made by his or her opponent, but may not receive more than three times the amount of the public financing benefit for the office that the candidate seeks. A candidate also receives additional public financing equivalent to any independent expenditures made against the candidate or in support of his or her opponents if those expenditures exceed by more than 20 percent the amount of the public financing benefit for the office that the candidate seeks, but may not receive more than three times the amount of that benefit.~~

The bill provides that if a candidate makes disbursements that exceed the total ~~amount of the public financing benefit allocated to the candidate and the total qualifying and seed money contributions lawfully accepted by the candidate,~~ the candidate is subject to a forfeiture (civil penalty) of not more than ten times the amount by which his or her disbursements exceed the allocation. In addition, the bill provides that a candidate who accepts contributions in excess of any limitation imposed under the bill is subject to a forfeiture of not more than ten times the amount by which the contributions exceed the applicable limitation. The bill also provides that if any candidate or agent of a candidate knowingly accepts more contributions than the candidate is entitled to receive, or makes disbursements exceeding the total amount of the public financing benefit received by the candidate and the qualifying and seed money contributions lawfully received by the candidate, the candidate or agent may be fined not more than \$25,000 or imprisoned for not more than ten years, or both. Under the bill, any person who, in connection with the receipt or *permitted under the bill*

The bill imposes a limitation on disbursements (expenditures) by a candidate who accepts a public financing benefit that equals the total public financing benefit allocated to the candidate and the total qualifying and seed money contributions lawfully accepted by the candidate.

SENATE BILL 40

- 3 -

RWS ANH

disbursement of a public financing benefit, knowingly provides false information to the Government Accountability Board, or knowingly conceals or withholds information from the board, is subject to the same penalty.

Currently, a candidate for the office of justice of the supreme court may qualify to receive a grant from the Wisconsin election campaign fund for use in an election campaign only (no funding is provided for primary campaigns). In order to qualify for a grant, a candidate must qualify to have his or her name appear on the spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. The maximum amount of a grant that a candidate may receive is \$97,031. This amount is not subject to any cost of living adjustment. In addition, this amount is reduced by the total amount of contributions received by a candidate from special interest committees and this amount may not be fully funded in a particular year if there are not sufficient moneys in the Wisconsin election campaign fund to provide full financing for all qualifying candidates. A candidate must agree to abide by spending and self-contribution limits in order to receive a grant, but this agreement does not apply if the candidate has an opponent who could have qualified for a grant but declines to do so and declines to file an affidavit of voluntary compliance with spending and self-contribution limits.

no public financing is available to finance the campaigns of candidates

Currently, individuals and committees making political contributions to candidates for the office of justice of the supreme court are subject to limitations on the amount or value of any contribution or contributions that may be made cumulatively to any candidate in a campaign. The limitations are \$10,000 in the case of an individual making a contribution to a candidate and \$8,625 in the case of a committee making a contribution to a candidate. This bill replaces these limitations with a contribution limitation of \$1,000 applicable to an individual or committee making any contribution or contributions cumulatively during a campaign period to any candidate for the office of justice of the supreme court who is eligible to qualify for a public financing benefit but who declines to accept one.

Under current law, the Wisconsin election campaign fund is financed through an individual income tax "checkoff." Every individual filing a state income tax return who has a tax liability or is entitled to a tax refund may direct that a portion of general purpose revenue be transferred to the fund. Individuals filing a joint return may separately choose whether to direct that the transfer be made. The designation does not increase an individual's tax liability nor reduce an individual's refund. This bill increases the amount of the individual income tax checkoff for the Wisconsin election campaign fund from \$1 to \$3. Under the bill, individuals filing a joint return may separately choose whether to make the \$3 checkoff. Under the bill, \$2 of each \$3 designation is deposited into the democracy trust fund, and the remaining \$1 is deposited into the Wisconsin election campaign fund, as currently provided. If the total designations do not generate sufficient general purpose revenues to fully fund the costs of public grants and administration of the democracy trust fund, the bill appropriates additional general purpose revenues to finance those costs.

The bill's public financing benefits are

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

Democracy Trust

SENATE BILL 40

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. ~~8.35 (4) (b) of the statutes is amended to read:~~

~~8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the Wisconsin election campaign fund shall be immediately transferred to any candidate who is appointed to replace such candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is no candidate appointed or if no proper application is filed within 7 days of the date on which the vacancy occurs, such moneys shall revert to the state as provided in s. 11.50 (8). Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the democracy trust fund shall be immediately transferred to any candidate who is appointed to replace that candidate upon filing of a proper application therefor under s. 11.502 (1). For purposes of qualification, contributions received and disbursements made by the former candidate are considered to have been received or made by the replacement candidate. If there is no candidate appointed or if no proper application is filed within 7 days of the date on which a vacancy occurs, the moneys shall revert to the state.~~

SECTION 2. 11.12 (2) of the statutes is amended to read:

11.12 (2) ~~Any~~ No registrant, other than a candidate who receives a public financing benefit from the democracy trust fund, may accept an anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. ~~The.~~ No candidate who



State of Wisconsin
2013 - 2014 LEGISLATURE

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text

ASSEMBLY AMENDMENT,
~~TO ASSEMBLY SUBSTITUTE AMENDMENT 1,~~
TO ASSEMBLY BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 2, line 12: after that line insert:

3 ~~SECTION 1s.~~ ^x 8.35 (4) (b) of the statutes is created to read:

4 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
5 received by a candidate from the democracy trust fund shall be immediately
6 transferred to any candidate who is appointed to replace that candidate upon filing
7 of a proper application therefor under s. 11.502 (1). For purposes of qualification,
8 contributions received and disbursements made by the former candidate are
9 considered to have been received or made by the replacement candidate. If there is
10 no candidate appointed or if no proper application is filed within 7 days of the date
11 on which a vacancy occurs, the moneys shall revert to the state.

12 ~~SECTION 1sb.~~ ^x 11.12 (2) of the statutes is amended to read:

1 11.12 (2) No registrant, other than a candidate who receives a public financing
2 benefit from the democracy trust fund, may accept an anonymous contribution
3 exceeding \$10. No candidate who receives a public financing benefit from the
4 democracy trust fund may accept an anonymous contribution exceeding \$5. Any
5 anonymous contribution ~~exceeding \$10~~ received by a campaign or committee
6 treasurer or by an individual under s. 11.06 (7) that may not be accepted under this
7 subsection may not be used or expended. The contribution shall be donated to the
8 common school fund or to any charitable organization at the option of the registrant's
9 treasurer.

10 **SECTION 1sc.** 11.16 (2) of the statutes is amended to read:

11 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. ~~Every~~ Except as provided in s.
12 11.506 (6), every contribution of money exceeding \$50 shall be made by negotiable
13 instrument or evidenced by an itemized credit card receipt bearing on the face the
14 name of the remitter. No treasurer may accept a contribution made in violation of
15 this subsection. The treasurer shall promptly return the contribution, or donate it
16 to the common school fund or to a charitable organization in the event that the donor
17 cannot be identified.

18 **SECTION 1sd.** 11.16 (3) of the statutes is amended to read:

19 11.16 (3) FORM OF DISBURSEMENTS. ~~Every~~ Except as authorized under s. 11.511
20 (1), every disbursement which is made by a registered individual or treasurer from
21 the campaign depository account shall be made by negotiable instrument. Such
22 instrument shall bear on the face the full name of the candidate, committee,
23 individual or group as it appears on the registration statement filed under s. 11.05
24 and where necessary, such additional words as are sufficient to clearly indicate the
25 political nature of the registrant or account of the registrant. The name of a political

1 party shall include the word "party". The instrument of each committee registered
2 with the board and designated under s. 11.05 (3) (c) as a special interest committee
3 shall bear the identification number assigned under s. 11.21 (12) on the face of the
4 instrument.

5 **SECTION 1st ~~1st~~ ^x** 11.26 (1) (a) of the statutes is amended to read:

6 11.26 (1) (a) Candidates for governor, lieutenant governor, secretary of state,
7 state treasurer, attorney general, or state superintendent ~~or justice~~, \$10,000.

8 **SECTION 1st ~~1st~~ ^x** 11.26 (1) (am) of the statutes is created to read:

9 11.26 (1) (am) Candidates for justice, \$1,000.

10 **SECTION 1st ~~1st~~ ^x** 11.26 (2) (a) of the statutes is amended to read:

11 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
12 state treasurer, attorney general, or state superintendent ~~or justice~~, 4 percent of the
13 value of the disbursement level specified in the schedule under s. 11.31 (1).

14 **SECTION 1st ~~1st~~ ^x (am)** 11.26 (2) (a) of the statutes is created to read:

15 11.26 (2) (a) Candidates for justice, \$1,000.

16 **SECTION 1st ~~1st~~ ^x** 11.26 (9) of the statutes is amended to read:

17 11.26 (9) (a) No individual who is a candidate for state or local office may receive
18 and accept more than 65 percent of the value of the total disbursement level
19 determined under s. 11.31 or 11.511 (7) (a) for the office for which he or she is a
20 candidate during any primary and election campaign combined from all committees
21 subject to a filing requirement, including political party and legislative campaign
22 committees.

23 (b) No individual who is a candidate for state or local office may receive and
24 accept more than 45 percent of the value of the total disbursement level determined
25 under s. 11.31 or 11.511 (7) (a) for the office for which he or she is a candidate during

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1 any primary and election campaign combined from all committees other than
2 political party and legislative campaign committees subject to a filing requirement.

3 **SECTION ~~Isj.~~^{*} 11.26^{*}** (13) of the statutes is created to read:

4 11.26 (13) Public financing benefits received from the democracy trust fund are
5 not subject to limitation by this section.

6 **SECTION ~~Isk.~~^v 11.31^v** (1) (d) of the statutes is amended to read:

7 11.31 (1) (d) Candidates for secretary of state, state treasurer, state
8 superintendent, ~~or justice~~ \$215,625.

9 **SECTION ~~IsL.~~[✓] 11.501[✓]** to 11.522 of the statutes are created to read:

10 **11.501 Definitions.** In ss. 11.501 to 11.522:

11 (1) “Allowable contribution” means a qualifying contribution, seed money
12 contribution, or personal contribution authorized under ss. 11.502 to 11.522.

13 (2) “Campaign” has the meaning given in s. 11.26 (17).[✓]

14 (3) “Election campaign period” means the period beginning on the day after the
15 spring primary election or the day on which a primary election would be held, if
16 required, and ending on the day of the succeeding spring election.

17 (4) “Eligible candidate” means a candidate for the office of justice who has an
18 opponent, who has qualified to have his or her name certified for placement on the
19 ballot at the spring primary or election, and who qualifies for a public financing
20 benefit by collecting the required number of qualifying contributions, making all
21 required reports and disclosures, and being certified by the board as being in
22 compliance with ss. 11.502 to 11.522.

23 (5) “Excess disbursement amount” means the amount of disbursements made
24 by a nonparticipating candidate in excess of the public financing benefit available to
25 an eligible candidate for the same office that the nonparticipating candidate seeks.

1 **(6)** “Excess qualifying contribution amount” means the amount of qualifying
2 contributions accepted by a candidate beyond the number or dollar amount of
3 contributions required to qualify a candidate for a public financing benefit.

4 **(7)** “Exploratory period” means the period that begins after the date of a spring
5 election immediately preceding a public financing qualifying period and ends on the
6 first day of the public financing qualifying period for the next election for justice.

7 **(9)** “Immediate family,” when used with reference to a candidate, includes the
8 candidate’s spouse and children.

9 **(10)** “Independent disbursement” means a disbursement by a person expressly
10 advocating the election or defeat of a clearly identified candidate which is made
11 without cooperation or consultation with a candidate, or any authorized committee
12 or agent of a candidate, and which is not made in concert with, or at the request or
13 suggestion of, any candidate, or any authorized committee or agent of a candidate.

14 **(11)** “Nonparticipating candidate” means a candidate for the office of justice
15 who does not apply for a public financing benefit or who is otherwise ineligible or fails
16 to qualify for a public financing benefit under ss. 11.502 to 11.522.

17 **(12)** “Personal funds” means funds contributed by a candidate or a member of
18 a candidate’s immediate family.

19 **(13)** “Primary election campaign period” means the period beginning on the
20 day after the last day prescribed by law for filing nomination papers for the office of
21 justice and ending on the day of the spring primary election for that office or the day
22 on which the primary election would be held, if required.

23 **(14)** “Public financing benefit” means a benefit provided to an eligible
24 candidate under ss. 11.502 to 11.522.

1 (15) “Public financing qualifying period” means, for each election for the office
2 of justice, the period beginning on the first day of July of the year immediately
3 preceding the year of that election and ending on the day before the beginning of the
4 primary election campaign period for that office.

5 (16) “Qualifying contribution” means a contribution in an amount of not less
6 than \$5 nor more than \$100 made to a candidate by an elector of this state during
7 the public financing qualifying period, which is acknowledged by written receipt
8 identifying the contributor.

9 (17) “Seed money contribution” means a contribution in an amount of not more
10 than \$100 made to a candidate by an elector of this state during the exploratory
11 period or the public financing qualifying period, or a contribution made to a
12 candidate consisting of personal funds of that candidate in an amount not more than
13 the amount authorized under s. 11.507 during the exploratory period or the public
14 financing qualifying period.

15 **11.502 Qualification; certification.** (1) Before a candidate for justice in the
16 primary election may be certified as an eligible candidate to receive a public
17 financing benefit for the primary election campaign period, the candidate shall apply
18 to the board for a public financing benefit and file a sworn statement that the
19 candidate has complied and will comply with all requirements of this section and ss.
20 11.503 to 11.522 throughout the applicable campaign, which includes the primary
21 and election for that office. A candidate shall file the application and statement no
22 later than the beginning of the primary election campaign period for the office that
23 the candidate seeks.

24 (2) A candidate shall be certified by the board as an eligible candidate for
25 receipt of a public financing benefit for a primary election if the candidate complies

1 with sub. (1) and receives qualifying contributions from at least 1,000 separate
2 contributors in an aggregate amount of not less than \$5,000 nor more than \$15,000
3 before the close of the public financing qualifying period.

4 (3) The board shall verify a candidate's compliance with the requirements of
5 sub. (2) by such verification and sampling techniques as the board considers
6 appropriate.

7 (4) Each candidate shall:

8 (a) Acknowledge each qualifying contribution by a receipt to the contributor
9 which contains the contributor's name and home address.

10 (b) No later than the 15th or the last day of the month which immediately
11 follows the date of receipt of a qualifying contribution, whichever comes first, file a
12 copy of the receipt under par. (a) with the board, except that during July, August, and
13 September a copy need only be filed by the last day of the month.

14 (5) A qualifying contribution may be utilized only for the purpose of making
15 a disbursement authorized by law.

16 **11.503 Time of application.** (1) Before a candidate may be certified as
17 eligible for receipt of a public financing benefit for the spring election, the candidate
18 shall apply to the board and file a sworn statement that the candidate has fulfilled
19 all the requirements of ss. 11.502 to 11.522 during the primary election campaign
20 period and will comply with such requirements during the election campaign period.
21 Except as authorized in s. 8.35 (4) (b), the application shall be filed no later than the
22 7th day after the date of the spring primary or the ^{date that} ~~day on which~~ the primary election
23 would be held if a primary were required.

24 (2) The board shall certify a candidate as an eligible candidate for receipt of a
25 public financing benefit for the spring election if the candidate complies with sub. (1)

1 and the candidate was an eligible candidate during the primary election campaign
2 period.

3 **11.505 Agreement by candidate.** An eligible candidate who accepts a public
4 financing benefit under ss. 11.502 to 11.522 during the primary election campaign
5 period shall agree to comply with all requirements of ss. 11.502 to 11.522 throughout
6 the election campaign period during the same campaign as a precondition to receipt
7 of a public financing benefit. An eligible candidate who accepts a public financing
8 benefit during a primary election campaign period may not elect to accept private
9 contributions in violation of ss. 11.502 to 11.522 during the corresponding election
10 campaign period.

11 **11.506 Requirements imposed upon candidates.** (1) An eligible
12 candidate shall not accept private contributions other than seed money
13 contributions and qualifying contributions that the candidate accepts during the
14 exploratory period and the public financing qualifying period.

15 (2) In addition to reports required to be filed under ss. 11.12 (5) and 11.20, a
16 candidate who receives a public financing benefit shall furnish complete financial
17 records, including records of seed money contributions, qualifying contributions, and
18 disbursements, to the board on the 15th or the last day of the month that
19 immediately follows the receipt of the contribution or the making of the
20 disbursement, whichever comes first, except that during July, August, and
21 September records need only be furnished by the last day of the month. Each such
22 candidate shall cooperate with any audit or examination by the board.

23 (3) In addition to adhering to requirements imposed under ss. 11.06 (5) and
24 11.12 (3), a candidate who receives a public financing benefit shall maintain records
25 of all contributions received by the candidate of more than \$5 but less than \$50,

1 including seed money contributions and qualifying contributions, which shall
2 contain the full name of the contributor and the contributor's full home address. In
3 addition, if a contributor's aggregate contributions to any candidate exceed \$50 for
4 any campaign, the candidate shall also maintain a record of the contributor's
5 principal occupation and the name and business address of the contributor's place
6 of employment.

7 (4) The failure to record or provide the information specified in sub. (3)
8 disqualifies a contribution from being used by a candidate as a qualifying
9 contribution.

10 (5) No eligible candidate and no person acting on a candidate's behalf may
11 deposit any contribution that is not recorded in accordance with sub. (3) in a
12 candidate's campaign depository account.

13 (6) No eligible candidate may accept more than \$25 in cash from any
14 contributor. No eligible candidate may accept cash from all sources in a total amount
15 greater than one-tenth of 1 percent of the public financing benefit for the office that
16 the candidate seeks or \$500, whichever is greater.

17 **11.507 Personal funds of candidates.** (1) The personal funds of a candidate
18 contributed as seed money contributions may not exceed an aggregate amount of
19 \$5,000.

20 (2) No eligible candidate may make any disbursement derived from personal
21 funds after the close of the public financing qualifying period.

22 **11.508 Seed money contributions.** (1) An eligible candidate may accept
23 seed money contributions from any individual or committee prior to the end of the
24 public financing qualifying period, provided the total contributions received from one
25 contributor, except personal funds and qualifying contributions otherwise permitted

1 under ss. 11.502 to 11.522, do not exceed \$100, and the aggregate contributions,
2 including personal funds, but not including qualifying contributions, do not exceed
3 \$5,000.

4 (2) An eligible candidate may make disbursements derived from seed money
5 contributions only during the exploratory period and the public financing qualifying
6 period.

7 **11.509 Excess contributions.** If an eligible candidate receives and accepts
8 excess seed money contributions or qualifying contributions in an aggregate amount
9 greater than the limits prescribed in s. 11.502 (2) or 11.508 (1), the candidate shall
10 transfer to the board all seed money and qualifying contributions that exceed the
11 limits prescribed in this section within 48 hours after the end of the public financing
12 qualifying period. The board shall deposit all contributions transferred under this
13 section in the democracy trust fund.

14 **11.51 Certification by candidate.** (1) To apply for a public financing benefit,
15 a candidate shall certify to the board that the candidate has complied and will
16 comply, throughout the applicable campaign, with all requirements of ss. 11.502 to
17 11.522 and that all disclosures required as of the time of application have been made,
18 and shall present evidence of the requisite number of qualifying contributions
19 received by the candidate. The candidate's request for certification shall be signed
20 by the candidate and the candidate's campaign treasurer.

21 (2) The board shall certify to the state treasurer the name of each eligible
22 candidate at the spring primary together with the amount of the public financing
23 benefit payable to the candidate promptly after the candidate demonstrates his or
24 her eligibility and, in any event, not later than 5 days after the end of the public
25 financing qualifying period. The state treasurer shall immediately credit that

1 candidate's account with a line of credit for the amount certified. No candidate may
2 utilize a line of credit received under this subsection until the beginning of the
3 primary election campaign period.

4 (3) The board shall certify to the state treasurer the name of each eligible
5 candidate at the spring election together with the amount of the public financing
6 benefit payable to the candidate not later than 48 hours after the date of the spring
7 primary election for the office of justice, or the date that the primary election would
8 be held if a primary were required. The state treasurer shall immediately credit that
9 candidate's account with a line of credit for the amount certified. However, no
10 candidate for a particular office shall receive a line of credit until all candidates for
11 the office of justice who apply and qualify for a public financing benefit have been
12 certified as eligible candidates.

13 (4) If any candidate who receives a public financing benefit violates the
14 requirements of ss. 11.502 to 11.522, the board shall require the candidate to repay
15 the amount obligated by the candidate from the democracy trust fund for the primary
16 or election campaign period for which the candidate received the benefit. The board
17 shall deposit all repayments received under this subsection in the democracy trust
18 fund.

19 **11.511 Public financing benefits.** (1) The state treasurer shall provide to
20 each eligible candidate who qualifies to receive a public financing benefit for the
21 primary or election campaign period separate lines of credit for the public financing
22 benefits payable to the candidate for the primary and election campaign periods in
23 the amounts specified in this section, ~~subject to any required adjustment under s.~~

24 ~~11.512 (2) or 11.513 (2).~~ An eligible candidate may use this public financing benefit
25 to finance any lawful disbursements during the primary and election campaign

1 periods to further the election of the candidate in that primary or election. An eligible
2 candidate shall not use this public financing benefit to repay any loan, or in violation
3 of ss. 11.502 to 11.522 or any other applicable law.

4 (2) ~~Except as provided in ss. 11.512 (2) and 11.513 (2), the~~ public financing
5 benefit for a primary election campaign period is \$100,000.

6 (3) ~~Except as provided in ss. 11.512 (2) and 11.513 (2), the~~ public financing
7 benefit for an election campaign period is \$300,000.

8 (4) If there is no spring primary for the office of justice, no eligible candidate
9 may receive a public financing benefit for the primary election campaign period.

10 (5g) An eligible candidate who receives a public financing benefit in the
11 primary election campaign period and whose name is certified to appear on the ballot
12 at the election following that primary may utilize any unencumbered balance of the
13 public financing benefit received by the candidate in the primary election campaign
14 period for the election campaign period.

15 (5r) Except as permitted in sub. (5g), an eligible candidate who receives a
16 public financing benefit and who does not encumber or expend some portion of the
17 benefit for a purpose described in sub. (1) shall return any unencumbered portion of
18 the benefit to the board within 30 days after the primary or election in which the
19 candidate participates.

20 (6) Notwithstanding subs. (2) and (3), beginning on July 1, ~~2012~~ ²⁰¹⁶, and every 2
21 years thereafter, the board shall modify the public financing benefits provided for in
22 subs. (2) and (3) to adjust for the change in the consumer price index, all items, U.S.
23 city average, published by the U.S. department of labor for the preceding 2-year
24 period ending on December 31.

1 (7) ~~(a) Except as provided in par. (b), no~~ candidate for the office of justice who
2 files an application for a public financing benefit and certification under s. 11.51 (1)
3 and who accepts a public financing benefit may make or authorize total
4 disbursements in a campaign, beginning with the first day of the exploratory period
5 and ending on the date of the spring election, to the extent of more than the maximum
6 amounts specified in ss. 11.502 (2) and 11.508 (1), plus the amount specified in s.
7 11.511 (3), as adjusted under s. 11.511 (6), and, if there is a primary for the office of
8 justice, the amount specified in s. 11.511 (2), as adjusted under s. 11.511 (6).

9 (b) If a candidate specified in par. (a) receives an additional public financing
10 benefit under s. 11.512 (2) or 11.513 (2), the candidate may make disbursements in
11 a campaign under par. (a) in an additional amount equivalent to the additional public
12 financing benefit received.

13 **11.512 Financial activity by nonparticipating candidates. (1)-** In
14 addition to other reports required by law, a nonparticipating candidate for an office
15 at a primary or election who receives contributions or makes or obligates to make
16 disbursements in an amount that is more than 5 percent greater than the public
17 financing benefit applicable to an eligible candidate for the same office at the same
18 primary or election shall file a report with the board itemizing the total contributions
19 received and disbursements made or obligated to be made by the candidate as of the
20 date of the report. The board shall transmit copies of the report to all candidates for
21 the same office at the same election. A nonparticipating candidate shall file
22 additional reports after the candidate receives each additional \$1,000 of
23 contributions, or the candidate makes or obligates to make each additional \$1,000
24 of disbursements. If such contributions are received or such disbursements are made
25 or obligated to be made more than 6 weeks prior to the date of the primary election

1 at which the name of the candidate appears on the ballot, or prior to the date that
2 the primary election would be held, if a primary were required, the reports shall be
3 made at the next regular reporting interval under s. 11.506. If such contributions
4 are received or such disbursements made or obligated to be made within 6 weeks
5 prior to the date of the primary election at which the name of the candidate appears
6 on the ballot, or within 6 weeks prior to the date that the primary election would be
7 held, if a primary were required, the reports shall be made within 24 hours after each
8 instance in which such contributions are received, or such disbursements are made
9 or obligated to be made.

10 (2) Upon receipt of such information, the board shall immediately certify to the
11 state treasurer the name of each opposing eligible candidate together with the
12 amount of a supplemental grant that shall become payable to that candidate. The
13 supplemental grant shall be equivalent to the total excess disbursement amount
14 made or obligated to be made, but not to exceed, in the aggregate, exclusive of any
15 amount to which the candidate is entitled under s. 11.513 (2), an amount equal to 3
16 times the public financing benefit payable to a candidate for the applicable office at
17 the primary or other election for which the benefit is received. The state treasurer
18 shall immediately credit each opposing eligible candidate with an additional line of
19 credit for the amount certified.

20 **11.513 Independent disbursements.** (1) If any person makes, or becomes
21 obligated to make, by oral or written agreement, an independent disbursement in
22 excess of \$1,000 with respect to a candidate for the office of justice at a spring primary
23 or election, that person shall file with the board a notice of the disbursement or
24 obligation to make the disbursement. Any such person shall file reports of such
25 disbursements or obligations to make such disbursements on the 15th or last day of

1 the month that immediately follows the date of the disbursement or the obligation
2 to make the disbursement, whichever comes first, except that, within 6 weeks prior
3 to the date of the spring primary election, if a primary is held, and within 6 weeks
4 prior to the date of the spring election, the person shall file such reports within 24
5 hours after each independent disbursement is made or obligated to be made. Any
6 such person shall file an additional report after each additional \$1,000 of
7 disbursements are made or obligated to be made.

8 (2) When the aggregate independent disbursements made or obligated to be
9 made by a person against an eligible candidate for an office or for the opponents of
10 that candidate exceed 120 percent of the public financing benefit for that office in the
11 primary election campaign period or the election campaign period, the board shall
12 immediately certify to the state treasurer the name of that candidate together with
13 the amount of a supplemental grant that shall become payable to that candidate.
14 The supplemental grant shall be equivalent to the aggregate independent
15 disbursements exceeding the applicable public financing benefit made or obligated
16 to be made by a person, but not to exceed, exclusive of any amount to which a
17 candidate is entitled under s. 11.512 (2), an amount equal to 3 times the public
18 financing benefit payable to a candidate for the applicable office at the primary or
19 other election for which the benefit is received. The state treasurer shall then
20 immediately credit that candidate with an additional line of credit for the amount
21 certified.

22 **11.515 Democracy trust fund.** The democracy trust fund shall be
23 administered by the state treasurer. The state treasurer shall establish an account
24 within the fund for each eligible candidate.

1 **11.516 Administration.** Except as otherwise specifically provided in ss.
2 11.501 to 11.522, the duties of and authority for administering and enforcing ss.
3 11.501 to 11.522 are vested in the board.

4 **11.517 Penalties; enforcement.** (1) Notwithstanding s. 11.60 (1), if an
5 eligible candidate makes disbursements that exceed the total amount of the public
6 financing benefit allocated to the candidate for any campaign and the total
7 qualifying and seed money contributions lawfully accepted by the candidate, the
8 candidate may be required to forfeit not more than 10 times the amount by which the
9 disbursements exceed the allocation.

10 (2) Notwithstanding s. 11.60 (1), any eligible candidate who accepts
11 contributions in excess of any limitation imposed under ss. 11.502 to 11.522 may be
12 required to forfeit not more than 10 times the amount by which the contributions
13 exceed the applicable limitation.

14 (3) If the board finds that there is probable cause to believe that an eligible
15 candidate has made excess disbursements or has accepted excess contributions
16 contrary to sub. (1) or (2), the board shall attempt for a period of not more than 14
17 days after its finding to correct the matter by informal methods of conference and
18 conciliation and to enter into a settlement and conciliation agreement under s. 5.05
19 (1) (c) with the person involved. A settlement and conciliation agreement made
20 pursuant to this subsection shall be a matter of public record. Unless violated, a
21 settlement and conciliation agreement is a bar to any civil action under sub. (4).

22 (4) If the board has probable cause to believe that an eligible candidate has
23 made excess disbursements or has accepted excess contributions and the board is
24 unable to correct the matter by informal methods within the time prescribed in sub.
25 (3), the board shall make a public finding of probable cause in the matter. After

1 making a public finding, the board may bring a civil action against the eligible
2 candidate as provided in s. 5.05 (1) (c).

3 (5) If an elector believes that an eligible candidate has violated ss. 11.502 to
4 11.522 and the elector is entitled to vote for or against the eligible candidate in the
5 election in connection with which the violation is alleged to occur, the elector may file
6 a complaint with the board requesting it to take remedial action. If the board refuses
7 to take remedial action or, within 30 days after the filing of such a complaint, fails
8 to take remedial action, the elector may commence a civil action requesting the court
9 to impose a forfeiture under sub. (1) or (2) in circuit court for the county where the
10 board is authorized to bring an action under s. 5.05 (1) (c).

11 (6) The board and courts shall expedite all proceedings under ss. 11.502 to
12 11.522 so that all complaints brought prior to an election are resolved, to the extent
13 possible, before the election is held.

14 (7) If a complaint brought under ss. 11.502 to 11.522 is resolved against the
15 complainant and is found to have been brought in bad faith and without reasonable
16 basis therefor, the board or court may assess costs, including reasonable attorney
17 fees, against the complainant.

18 **11.518 Prohibited acts.** (1) Notwithstanding s. 11.61 (1) (c), if an eligible
19 candidate or agent of a candidate knowingly accepts more contributions than the
20 candidate is entitled to receive, or makes disbursements exceeding the total amount
21 of the public financing benefit received by the candidate and the qualifying and seed
22 money contributions lawfully received by the candidate, the candidate or agent is
23 guilty of a Class G felony.

24 (2) Notwithstanding s. 11.61 (1) (c), if in connection with the receipt or
25 disbursement of a public financing benefit for an election campaign, any person

1 knowingly provides false information to the board, or knowingly conceals or
2 withholds information from the board, that person is guilty of a Class G felony.

3 **11.522 Contributions to nonparticipating candidates.** A
4 nonparticipating candidate may accept contributions from private sources without
5 limitation, except that no person may make any contribution or contributions to a
6 nonparticipating candidate exceeding a total of \$1,000 during any campaign.

7 **SECTION ^{2#}1sm.** 11.60 (4) of the statutes is amended to read:

8 11.60 (4) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (h),
9 5.08, and 5.081, actions under this section or 11.517 may be brought by the board or
10 by the district attorney for the county where the defendant resides or, if the
11 defendant is a nonresident, by the district attorney for the county where the violation
12 is alleged to have occurred. For purposes of this subsection, a person other than a
13 natural person resides within a county if the person's principal place of operation is
14 located within that county.

15 **SECTION ^{2#}1sm.** 11.61 (2) of the statutes is amended to read:

16 11.61 (2) Except as otherwise provided in ss. 5.05 (2m) (c) 15. and 16. and (i),
17 5.08, and 5.081, all prosecutions under this section or s. 11.518 shall be conducted
18 by the district attorney for the county where the defendant resides or, if the
19 defendant is a nonresident, by the district attorney for the county where the violation
20 is alleged to have occurred. For purposes of this subsection, a person other than a
21 natural person resides within a county if the person's principal place of operation is
22 located within that county. ~~23~~

23 **2.** Page 245, line 8: after that line insert:

Section #. 20.005(3) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

LPS:
action: ch 20
component

X:ch20:section

X:ch20:sub

edit is

X:ch20:section

X:ch20:sub

edit is

X:ch20:section

X:ch20:sub

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20.855 Miscellaneous Appropriations

(4) (5) Tax, assistance and transfer payments

(ba) Democracy trust fund payments GPR S -0- -0-

(bb) Democracy trust fund transfer GPR S -0- -0-

3. Page 270, line 8: after that line insert:

(r) Democracy trust fund adminis-
tration

SEG A

-0-

-0-

4. Page 282, line 7: after that line insert:

(q) Public financing benefits; candi-
dates for justice

SEG S

-0-

-0-

(r) Democracy trust fund adminis-
tration

SEG A

-0-

-0-

5. Page 376, line 8: after that line insert:

SECTION 461c. 20.511 (1) (r) of the statutes is created to read:

20.511 (1) (r) *Democracy trust fund administration*. From the democracy trust
fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

6. Page 377, line 23: after that line insert:

SECTION 463m. 20.585 (1) (q) of the statutes is created to read:

20.585 (1) (q) *Public financing benefits; candidates for justice*. From the
democracy trust fund, a sum sufficient to provide for payment of public financing
benefits to eligible candidates under ss. 11.501 to 11.522.

SECTION 468m. 20.585 (1) (r) of the statutes is created to read:

20.585 (1) (r) *Democracy trust fund administration*. From the democracy trust
fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

7. Page 378, line 14: after that line insert:

1 ~~SECTION 466a~~ 20.855 (4) (ba) of the statutes is created to read:

2 20.855 (4) (ba) *Democracy trust fund payments*. A sum sufficient equal to the
3 amounts determined under s. 71.10 (3) to be paid into the democracy trust fund
4 annually on August 15.

5 ~~SECTION 466f~~ 20.855 (4) (bb) of the statutes is created to read:

6 20.855 (4) (bb) *Democracy trust fund transfer*. A sum sufficient equal to the
7 difference between the unencumbered balance in the democracy trust fund and the
8 amounts required to provide public financing benefits that candidates qualify to
9 receive from the democracy trust fund, to be transferred from the general fund to the
10 democracy trust fund no later than the time required to make payments of grants
11 under s. 11.51 (2) and (3). ~~SECTION 466g~~

12 ~~8. Page 403, line 25, after that line insert:~~

13 ~~SECTION 514f~~ 25.17 (1) (cm) of the statutes is created to read:

14 25.17 (1) (cm) Democracy trust fund (s. 25.421); ~~SECTION 514g~~

15 ~~9. Page 406, line 8, after that line insert:~~

16 ~~SECTION 518s~~ 25.421 of the statutes is created to read:

17 **25.421 Democracy trust fund.** All moneys appropriated under s. 20.855 (4)
18 (ba) and (bb) and all moneys deposited in the state treasury under ss. 11.509, 11.51
19 (4), and 11.511 (5r) constitute the democracy trust fund, to be expended for the
20 purposes of ss. 11.501 to 11.522. ~~SECTION 518t~~

21 ~~10. Page 744, line 19, after that line insert:~~

22 ~~SECTION 1348g~~ 71.10 (3) of the statutes is created to read:

23 71.10 (3) CAMPAIGN FUND. (a) Every individual filing an income tax return who
24 has a tax liability or is entitled to a tax refund may designate \$2 for the democracy

1 trust fund for the use of eligible candidates under s. 11.51. If the individuals filing
2 a joint return have a tax liability or are entitled to a tax refund, each individual may
3 make a designation of \$2 under this subsection.

4 (b) The secretary of revenue shall provide a place for those designations on the
5 face of the individual income tax return and shall provide next to that place a
6 statement that a designation will not increase tax liability. Annually on August 15,
7 the secretary of revenue shall certify to the government accountability board, the
8 department of administration and the state treasurer the total amount of
9 designations made during the preceding fiscal year. If any individual attempts to
10 place any condition or restriction upon a designation, that individual is deemed not
11 to have made a designation on his or her tax return.

12 (c) The names of persons making designations under this subsection shall be
13 strictly confidential.

14 **11.** Page 1377, line 6: after that line insert:

15 ~~(5) DEMOCRACY TRUST FUND DESIGNATIONS~~ The treatment of section 71.10 (3)
16 of the statutes first applies to taxable years beginning on January 1 of the year in
17 which this subsection takes effect, except that if this subsection takes effect after
18 July 31 the treatment first applies to taxable years beginning on January 1 of the
19 year following the year in which this subsection takes effect.

20 **12.** Page 1384, line 17: after that line insert:

21 ~~(1) DEMOCRACY TRUST FUND. The treatment of sections 8.35 (4) (b), 11.12 (2),~~
22 ~~11.16 (2) and (3), 11.26 (1) (a) and (am), (2) (a) and (an), (9) and (13), 11.31 (1) (d),~~
23 ~~11.501 to 11.522, 11.60 (4), 11.61 (2), 20.511 (1) (r), 20.585 (1) (q) and (r), 20.855 (4)~~

LPS: action: *US: inappl

LPS: action: *US: effdate

text: *US:
in appl

Text: NS: eff date

1 ~~(ba) and (bb), 25.17 (1) (cm), 25.421, and 71.10 (3) of the statutes and SECTION 9337~~

~~2~~ ~~(15g) of this act take~~ effect on December 1 following the date of publication. ~~3~~

3

(END)

Rose, Stefanie

From: Divine, Kathy
Sent: Thursday, July 25, 2013 1:17 PM
To: LRB.Legal
Subject: Draft Review: LRB -2423/1 Topic: Restore Democracy Trust Fund

Please Jacket LRB -2423/1 for the ASSEMBLY.